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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/715,974	11/17/2003	John Ousterhout	6260P006	5353

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EXAMINER
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CHAUHAN, LOREN B

ART UNIT	PAPER NUMBER
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2193

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/715,974

Applicant(s)

OUSTERHOUT ET AL.

Examiner

Loren Chauhan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 17 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>See Continuation Sheet</u> . | 6) <input type="checkbox"/> Other: _____  |

Continuation of Attachment(s) 3). Information Disclosure Statement(s) (PTO/SB/08), Paper No(s)/Mail Date :2/23/2004, 12/12/2005, 3/30/2006, 9/11/2006, 2/13/2007.

**DETAILED ACTION**

1. Claims 1-25 are pending for examination.

***Claim Rejections - 35 USC § 101***

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 10-25 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

- a. As to claims 10 and 18, the claims are claim is non-statutory as they fail to produce a "useful, concrete, and tangible result." *State Street Bank & Trust Co. v. Signature Financial Group Inc.*, 149 F. 3d 1368, 1373-74 (Fed. Cir. 1998). The claims are directed to a system but the body of the claims are directed to a file repository, a central build module and a file tracking module, which are functionally descriptive material (i.e. software per se; see Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility page 52).

- b. As to claims 11-17 and 19-25 are rejected for similar reasons as discussed for their respective parent claims, as they fail to present any limitations that resolve the deficiencies of the claim from which they depend.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- c. The claim language in the following claims is not clearly understood:

- i. As per claim 1, lines 5-6, it is not clear who is receiving the request and redirecting the second node (i.e. file repository or first node?).
- ii. As per claim 2, line 2, it is unclear who is updating file location data and where it is being updated (i.e. file repository/first node/second node updates file location data?).
- iii. As per claim 3, line 2, it is not clearly understood who is receiving a request for the first source file from a third file (i.e. file repository OR first node OR second node). Line 5, it is not properly explain who is redirecting the third node (i.e. first node OR second node OR file storage).
- iv. As per claim 5, line 4, it is not clearly understood who is determining that the second node is busy (i.e. second node itself OR file repository server?).
- v. As per claim 6, it is not clearly understood what is meant by "the second node transferring a second source file" (i.e. second node has more than one source files OR it is a copy of the first source file?).

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- vi. As per claim 9, it is unclear what is meant by "the first node begins to copy the first source file to the second node prior to fully receiving the source file from the program build file repository" (i.e. prior to receiving file from file repository how can first node copy a file to second node).
- vii. As per claim 10, lines 4 and 7, it is not clear where is central build module and file tracking module is located (i.e. in file repository or in some another server?).
- viii. As per claims 11-25, they are similar claims of claims 1-10, therefore; they are rejected for the same reason as per claims 1-10 above.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-4, 10-13 and 18-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burton (US PG-Pub. No. 2003/0126118) in view of Vasilik (US PG-Pub. No. 2003/0163799).

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8. As per claim 1, Burton teaches the invention substantially as claimed including a method implemented within a distributed build system (page 1 [0004] lines 1-3)

comprising:

transmitting a first source file from a program build file repository to a first node (page 1 [0007] lines 19-20);

receiving a request for the first source file from a second node (page 1 [0008] lines 5-7); and

redirecting the second node to retrieve the first source file from the first node rather than from the program build file repository (page 1 [0008] lines 9-11).

9. Burton does not explicitly teach, the first node using the source file to generate a target file identified in the build process.

10. Vasilik teaches using the source file to generate a target file identified in the build process (page 2 [0023] lines 8-10, 22-23, 30-31).

11. It would have been obvious to one of the ordinary skill in the art at the time of the invention was made to combine the teachings of Burton and Vasilik so that the system can merge individual modifications made to files and groups of files without causing conflicts (Burton page 1 [0004] last 3 lines).

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12. As per claim 2, Burton teaches updating file location data to indicate that the first source file is stored at the first node and the second node (736, fig. 5).

13. As per claim 3, Burton teaches receiving a request for the first source file from a node (page 1 [0008] lines 5-7); choosing between the first node and the second node based on a node prioritization policy (page 1 [0011]); and redirecting the third node to either the first node or the second node based on the results of the node prioritization policy (page 3 [0030]).

14. As per claim 4, Burton teaches redirecting the third node to retrieve the first source file from the second node (page 1 [0008] lines 9-11). However, Burton does not explicitly teach the node prioritization policy comprises assigning a relatively higher priority to nodes, which have requested a source file more recently than other nodes.

15. Burton uses similar prioritization policy based on file proximate (page 3 [0031]).

16. It would have been obvious to one of the ordinary skill in the art to modify this policy with applicant's prioritization policy such that it will provide significant improvements in the file transfer time and hence reduce latency.

17. As per claims 10-13 and 18-21, they are similar claims of claims 1-4, therefore; they are rejected for the same reason as per claims 1-4 above.



18. Claims 5-7, 14-16 and 22-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burton (US PG-Pub. No. 2003/0126118) in view of Vasilik (US PG-Pub. No. 2003/0163799) and further in view of Miller (US Pat. No. 7,197,547).

19. Burton teaches redirecting the third node to retrieve the first source file from the second node based on the results of the node prioritization policy (page 3 [0030]).

20. Burton does not explicitly teach determining that the second node is busy; and as a result of the determination that the second node is busy, redirecting the third node to retrieve the first source file from the first node.

21. Miller teaches determining that the second node is busy; and as a result of the determination that the second node is busy, redirecting the third node to retrieve the first source file from the first node (col. 1, lines 37-38, 40-41, 44-45).

22. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to combine the teachings of Burton and Miller so that it will transfer the file from the least busy node, hence providing faster file transfer and reduces the file latency.

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23. As per claim 6, Burton teaches the second node transferring a second source file to a fourth node (page 3 [0029] lines 5-9, 21-24).

24. As per claim 7, Burton teaches that redirecting the third node to retrieve the first source file from the program build file repository (page 3 [0029] lines 5-9, 21-24).

25. Burton does not explicitly teach determining that the first node and/or the second node are busy and/or do not contain a copy of the first source file.

26. It is noted at the time of the invention was made to determine that the first node and/or the second node are busy and/or do not contain a copy of the first source file so that it will improve the system by reducing the latency of delivering a file to a requesting clients.

27. As per claims 14-16 and 22-24, they are similar claims of claims 5-7, therefore, they are rejected for the same reason as per claims 5-7 above.

28. Claims 8-9, 17 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burton (US PG-Pub. No. 2003/0126118) in view of Vasilik (US PG-Pub. No. 2003/0163799) and further in view of Kase (US PG-Pub. No. 2003/0126194).

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29. As per claim 8, Burton and Miller does not explicitly teach transmitting a copy of the first source file from the first node to the second node.

30. Kase teaches transmitting a copy of the first source file from the first node to the second node (page 2 [0025] lines 3-8).

31. It would have been obvious to one of ordinary skill in the art at the time of the invention made to combine the teachings of Burton, Vasilik and Kase so that it will transmit necessary files to requesting node so that requesting node can fulfill its task using provided files.

32. As per claim 9, Kase teaches the first node begins to copy the first source file to the second node prior to fully receiving the source file from the program build file repository (page 2 [0025]).

33. As per claims 17 and 25, they are similar claims of claim 9, therefore; they are rejected for the same reason as per claim 9 above.

**Conclusion**


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Loren Chauhan whose telephone number is 571-270-1554. The examiner can normally be reached on Mon.-Thr. 9:30-5:00 (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai An can be reached on 571-272-3756. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Loren Chauhan  
Examiner  
Art Unit 2193

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1/17/08  
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PRIMARY EXAMINER